

The Tax Tale Thickens

By Anthony Lewis

WASHINGTON, Dec. 19—The financial information released by President Nixon has raised one especially puzzling question among tax specialists. It relates to his \$375,000 "gift" of papers, allegedly made in March 1969, and used thereafter as the basis for large tax deductions.

Mr. Nixon had given some papers to the President before, on Dec. 30, 1968, in a straightforward legal way. He signed a deed and an affidavit to the General Services Administration signed in his date arrangement. Yet a few months later he made the 1969 "gift" without doing that. Neither he nor anyone from the G.S.A. signed the deed. It was not even signed by Mr. C. for another day. A note of possible illegality.

Why did he do this? The explanation is not clear. It is possible that he was trying to avoid the scrutiny of the G.S.A. and the public.

Conrad Murray Prof. George Cooper, a professor at the University of California, Berkeley, thinks the timing of the gift in 1969 was a deliberate attempt to deal with the problem of a tax law that had been passed in 1968. He thinks that the "gift" may have involved a conscious deception amounting to a criminal tax evasion.

The Cooper thesis, as it has come to be known among some tax specialists, is one of the most serious allegations. It requires a detailed investigation of the 1969 papers episode.

On March 20, 1969, 27 boxes of Mr. Nixon's presidential papers arrived at the National Archives. No explanation was given for their delivery. They were put in an area reserved for "special" storage of officials' papers, not with the permanent collection.

On April 21, 1969, Edward J. McGuire, a White House counsel, signed a deed purporting to give a portion of those papers to the United States. Lawyers usually follow a pattern in preparing a second gift of similar property they would simply retype the first deed. The 1969 deed did not follow the one of Dec. 30, 1968, verbatim. But it entirely omitted one crucial paragraph of the earlier document, a clause calling for an official of the G.S.A. to sign and the deed to be filed with the G.S.A.

It is not clear why the clause was omitted. It is possible that Mr. Nixon wanted to avoid the scrutiny of the G.S.A. and the public. It is also possible that the clause was omitted because it was not necessary for the deed to be filed with the G.S.A. if it was signed by a White House counsel.

ABROAD AT HOME

What can explain the peculiarities of that deed? Professor Cooper says they must have been a response to the particular legislative situation in 1969.

From the beginning of that year, tax reform was a big issue. On April 21—the very day that Mr. Nixon signed the deed—President Nixon sent a tax reform message to Congress. Among other things, it called for change in a provision allowing a deduction for the full value of appreciated property given to charity. One of the main purposes of the deed, though, was to give away property, though it was not a charity. The deed was not a gift.

The Senate, in passing its version of the deed bill, made changes in the gift of property ineffective to Jan. 1, 1969. The final version, which did not pass until a House-Senate conference in December, made the deed bill retroactive only to July 25, 1968.

It is not clear whether the deed was made before or after the law was passed. If it was made before, it would be a gift of property. If it was made after, it would be a gift of property. Professor Cooper argues that they did not want to make a gift of papers and then find that they got no tax benefits, so they tried to keep their options open.

They delivered some papers to the Archives in a way that made no commitments. They wrote a deed that had no place for a G.S.A. signature and thus could be kept secret as it was.

If Congress made the reform retroactive to Jan. 1, 1969, then they could destroy the deed. Mr. Nixon would still own the papers and in due course could send a truck to the Archives and pick them up. But if Congress picked a later effective date for the reform, as it did, he would produce the deed and say that it had been made before the deadline.

This is George Cooper's explanation of the mystery. If his suspicions are correct, if such a "scheme" was afoot, he argues, "then a conscious deception was involved which seems clear criminal tax evasion." Legally, that conclusion would require evidence of intent, presumably testimony from one or more of those involved.

The Joint Congressional Committee on Internal Revenue Taxation, which is now making a thorough examination of the President's returns, will want to question Mr. McGuire and Mr. De Marco about the mystery of the 1969 deed. In any case, it is the committee that Professor Cooper looks to when he says: "There is a case of tax conniving in the Nixon return that goes beyond ordinary avoidance and deserves to be investigated as will be evasion."